REMARKS/ARGUMENTS

Claims 1 through 21 remain in this application.

Claim Rejections Under 35 U.S.C. § 102(e)

The Office Action rejected claims 1 through 21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7039005 to Jenq et al. (the Jenq reference). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. The identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. 2131. Applicants respectfully traverse this rejection of the claims under 35 U.S.C. 102(e) because the Office Action has failed to prove that the Jenq reference discloses each and every element of the claims.

Independent Claim 1 and dependent claims 2 through 8

The Office Action has failed to prove that the Jenq reference discloses the elements of claim 1, *inter alia*, of, "subsequent to the switching, identifying all active lightpaths in the network that no longer have an available protection path; and attempting to allocate a protection path to each of the identified active lightpaths." The Office Action cites Figs. 4 and 5 and column 9, lines 1-64 of the Jenq reference as disclosing these elements. The Jenq reference states at column 9, lines 10 through 27 that:

> "In the illustrated embodiment, in the event of a fault in the communications link (not numbered) coupling the intermediate node 108 to the intermediate node 110 of the working path 103, the signaling protocol dynamically establishes a second explicitly routed protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths.
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> In the illustrated example, the protect path 107 is established between the intermediate node 106 and the sink node 112 to by-pass the fault between the intermediate node 108 and the intermediate node 110. The source node 104 sends the primary traffic flow to the intermediate node 106, which subsequently sends

> the primary traffic flow over the dynamically established protect path 107 to the sink node 112. Further, the source node 104 sends the secondary traffic flow over the first established protect path 105 to the sink node 112. In effect, the protect path 107 becomes a new working path."

According to this description, the procedure in the Jenq reference is to only establish the protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths. Thus, there is no identification of all lightpaths in the network that may be affected. And furthermore, in effect, the protect path 107 becomes a new working path since the primary traffic flow is sent over the protect path 107. This teaches away from the procedure described in claim 1 of attempting to allocate a protection path to each of the identified active lightpaths.

In conclusion, the Office Action has failed to show how the Jenq reference discloses each and every element of the independent claim 1 and in fact, the Jenq reference teaches away from the requirements of claim 1. Claims 2 through 8 add further patentable matter to Claim 1 and thus are further differentiated and patentable under 35 U.S.C. §102(e) over the Jenq reference.

Independent Claim 9 and dependent claims 10 through 14

The Office Action has failed to prove that the Jenq reference discloses the elements of claim 9, *inter alia*, of, "subsequent to the switching, classifying as orphans all active lightpaths in the network that no longer have an available protection path as a result of the failure; and attempting to allocate a protection path to each of the orphans each time an active lightpath is released in the network." The Office Action cites Figs. 4 and 5 and column 9, lines 1-64 of the Jenq reference as disclosing these elements. The Jenq reference states at column 9, lines 10 through 27 that:

> "In the illustrated embodiment, in the event of a fault in the communications link (not numbered) coupling the intermediate node 108 to the intermediate node 110 of the working path 103, the signaling protocol dynamically establishes a second explicitly routed protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths.

> In the illustrated example, the protect path 107 is established between the intermediate node 106 and the sink node 112 to by-pass the fault between the intermediate node 108 and the intermediate node 110. The source node 104 sends the primary traffic flow to the intermediate node 106, which subsequently sends the primary traffic flow over the dynamically established protect path 107 to the sink node 112. Further, the source node 104 sends the secondary traffic flow over the first established protect path 105 to the sink node 112. In effect, the protect path 107 becomes a new working path."

According to this description, the procedure in the Jenq reference is to only establish the protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths. Thus, there is no description of classifying as orphans all active lightpaths in the network that no longer have an available protection path, as stated in claim 9. And furthermore, in effect, the protect path 107 becomes a new working path since the primary traffic flow is sent over the protect path 107. This teaches away from the procedure described in claim 9 of attempting to allocate a protection path to each of the orphans each time an active lightpath is released in the network

In conclusion, the Office Action has failed to show how the Jenq reference discloses each and every element of the independent claim 9 and in fact, the Jenq reference teaches away from the requirements of claim 9. Claims 10 through 14 add further patentable matter to Claim 9 and thus are further differentiated and patentable under 35 U.S.C. §102(e) over the Jenq reference.

Independent Claim 15 and dependent claims 16 through 21

The Office Action has failed to prove that the Jenq reference discloses the elements of claim 15, *inter alia*, of, "means for identifying all active lightpaths in the network that no longer have an available protection path subsequent to the switching; and means for attempting to allocate a protection path to each of the identified active lightpaths each time an active lightpath is released in the network." The Office Action cites Figs. 4 and 5 and column 9, lines 1-64 of the Jenq reference as disclosing these elements. The Jenq reference states at column 9, lines 10 through 27 that:

> "In the illustrated embodiment, in the event of a fault in the communications link (not numbered) coupling the intermediate node 108 to the intermediate node 110 of the working path 103, the signaling protocol dynamically establishes a second explicitly routed protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths.
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> In the illustrated example, the protect path 107 is established between the intermediate node 106 and the sink node 112 to by-pass the fault between the intermediate node 108 and the intermediate node 110. The source node 104 sends the primary traffic flow to the intermediate node 106, which subsequently sends the primary traffic flow over the dynamically established protect path 107 to the sink node 112. Further, the source node 104 sends the secondary traffic flow over the first established protect path 105 to the sink node 112. In effect, the protect path 107 becomes a new working path."

According to this description, the procedure in the Jenq reference is to only establish the protect path 107 in addition to the first established protect path 105 to allow the primary and secondary traffic flows to be sent to the sink node 112 along separate protect paths. Thus, there is no means for identification of all lightpaths in the network that may be affected. And furthermore, in effect, the protect path 107 becomes a new working path since the primary traffic flow is sent over the protect path 107. This teaches away from the procedure described in claim 15 of means for attempting to allocate a protection path to each of the identified active lightpaths each time an active lightpath is released in the network.

In conclusion, the Office Action has failed to show how the Jenq reference discloses each and every element of the independent claim 15 and in fact, the Jenq reference teaches away from the requirements of claim 15. Claims 16 through 21 add further patentable matter to Claim 15 and thus are further differentiated and patentable under 35 U.S.C. §102(e) over the Jenq reference.

CONCLUSION

For the above reasons, the foregoing amendment places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact Jessica Smith at (972) 240-5324.

Respectfully submitted,
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Dated: November 21, 2007

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